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To: Newport Vacation Rental Ad Hoc Committee

Re: Thoughts on VR Ordinance Issues and Suggested Revisions

I am currently a member of the Planning Commission and formerly a member of the 2012 Ad Hoc Committee. I helped develop the current ordinance and have lived with its successes and shortcomings ever since. Your committee has an excellent opportunity to improve the ordinance by addressing several problems with the current ordinance that have come to light in the last five years.

In my neighborhood, one of the VRDs is owned and managed by an out-of-town resident who has been the subject of multiple complaints. At some point, he neglected to renew his business license and pay his room taxes at all for at least a couple of years. Eventually, he was forced into compliance by the City issuing citations which resulted in a municipal court appearance and fine. That was a long and frustrating process for everyone involved. I hope the new ordinance will add provisions that will force the few "bad" owners to better comply with the provisions.

A majority of VRD owners appear willing to comply with the requirements of the ordinance and fulfill their responsibilities. But there will always be some that do not and it is incumbent on the City to adopt an ordinance that will minimize non-compliance.

## GENERAL ISSUES

### Neighborhood Integrity

Recently, especially in Nye Beach and Agate Beach, VRDs are having a significant negative impact on the neighborhood and the residents' quality-of-life. We have heard accounts of residences being turned into VRDs to the point that, for one homeowner, residences on both sides and across the street have been turned into VRDs resulting in a serious degradation of neighborhood integrity.

Multiple VRDs in close proximity are likely to cause issues, especially with parking, noise, and security.

I would like to see the committee consider zone-based, or overlay-based, restrictions on VRDs. Specifically, I do not believe that VRDs, which are **commercial** enterprises, belong in residential neighborhoods. I would like to see an outright ban on new VRDs in R-1 and R-2 areas. Alternatively, the same result could be achieved by a requirement that new VRDs not be allowed within some specific distance of another VRD, perhaps 500 to 1,000 feet.

An overlay could also be constructed that would limit VRDs to specific tourist-oriented areas of the city and prohibit them elsewhere. Again, I believe that lots designated R-1 or R-2 should be excluded for such an overlay.

## Compliance

I will talk about enforcement below, but I am very concerned that there may be a significant number of VRDs that are not obtaining the appropriate endorsement and are not remitting room taxes. The number of online short-term rental sites has increased significantly since 2012. I am aware from trying to identify specific VRD properties from the online sites that it is very difficult to do. The Community Development department has made an effort to do exactly that, but much more needs to be done.

I recommend that the Ad Hoc Committee investigate some way to get a list of properties directly from the online sites. It is possible that many of them might comply with such a request voluntarily, but it is also certainly worthwhile investigating some legal approach to get the information.

The sites may also be willing to notify their owners listing properties in Newport of the City requirements. Airbnb has done this for Portland (see <https://www.airbnb.com/help/article/875/portland--or>); perhaps they and other site could do something similar for Newport.

## Airbnb

Unfortunately, the City Council has precluded such action with Airbnb by signing an agreement with them that all room taxes collected by them will be remitted as a lump-sum payment with NO audit trail. This not only makes it impossible for the finance department to audit the remittances, but also effectively waives all of the other requirements in the current ordinance (safety, occupancy, ...) unless the City becomes aware of the VRD's existence.

Derrick has indicated that the Ad Hoc Committee will take a look at that agreement and would strongly encourage you to do so. Cannon Beach recently decided to terminate their similar agreement with Airbnb because of the audit restrictions. I believe Newport should do the same.

## Local Contact

The idea of having a local contact to respond to complaints seems pretty obvious. But, in 2012, we were unable to agree on a definition of "local" and therefore did not include that requirement.

That has turned out to be problematic. Issues that could have been addressed easily by having a local person to work with renters and neighbors have sometimes become a source of frustration, and even anger, as both parties try to deal with a contact elsewhere in Oregon or even in another state.

A local contact requirement should be included in any revised ordinance.

## Enforcement

Enforcement has been the most frustrating issue for those of us who have to deal with problem VRDs. There are some issues that need to get the police department involved (illegal parking, excessive noise, ...) but most of the 'enforceable' provisions of the ordinance are actually not enforceable. For example, on a Saturday night when there are many more people staying at a VRD than are allowed in the endorsement, what can be done? Nothing.

If you examine the current ordinance, there are really only two provisions that can reasonably be enforced: garbage cans left out too long and advertising in excess of occupancy limits. Enforcement for all of the other provisions and requirements would need much greater action by City departments than we have seen over the last five years.

On an ongoing basis, after the initial inspection, "bad" owners are free to ignore compliance with the posting, parking, or many other requirements; there is no ongoing monitoring except for annual fire department inspections that do not check for any of these items.

## SPECIFIC PROVISIONS

Listed below are some of the sections of the current ordinance, in italics, and my comments. I would be glad to expand on these comments upon request.

### 14.25.010 Purpose

*This section establishes the terms, criteria and procedures by which bed and breakfast and vacation rental uses may be permitted to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and accumulation of refuse.*

In constructing the new ordinance, you should give precedence to these purposes, especially protecting the character of neighborhoods and how potential negative effects are addressed.

### 14.25.020 General Provisions

*A. Vacation rental and bed and breakfast use of an existing dwelling unit is permitted in all residential and commercial zone districts subject to a business license endorsement ("endorsement") pursuant to the provisions of this section;*

Here is where some zone, separation, or overlay restrictions could go.

### 14.25.040 Application Submittal Requirements

*C. Names and addresses of property owners within 200 feet of the subject property (or outline of property that is held in common), as shown in the records of the County Assessor. If the property is within a homeowners association, then contact information for the association shall also be provided.*

Notification range should be increased; maybe 500 feet.

### 14.25.050 Standards for Vacation Rental or bed and Breakfast Endorsement

*C. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to the vacation rental or bed and breakfast use. The location and design of parking spaces shall comply with 14.14, and designated spaces shall be available at all times to guests;*

This provision needs to specifically state that the maximum overnight occupancy will be reduced if the required spaces cannot be provided. The lack of specificity in

this provision has caused confusion and led to a former Community Service Officer to conclude, in error, that it did not reduce the occupancy limit.

*D. Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied for vacation rental or bed and breakfast use;*

*1. Owner or designee shall provide for regular garbage removal from the premises; and*

*2. Trash receptacles shall be stored or screened out of plain view of the street*

I strongly support a requirement that all owners use the “concierge” service from Thompson’s.

*F. Guest Register. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to city emergency responders upon request;*

Access to the guest register was changed from any city staff to city emergency responders by the City Council at the last minute at the insistence of a counselor who was in the real estate business. That change made auditing and tracking usage impossible.

*G. Contact Information. Owner or designee shall maintain on file with the City the name, telephone number, mailing address and email address (if available) of a contact person responsible for responding to questions or concerns regarding operation of the vacation rental or bed and breakfast. The contact person or designee must accept calls on a 24 hour basis and respond to inquiries from a tenant, complainant or the City within 24 hours. For the purpose of this subsection “respond” means an attempt to contact the person or persons that made the inquiry to address their questions or concerns;*

Here is where the requirement for a local contact should be.

*J. Posting. A copy of the business license endorsement shall be located within the vacation rental or bed and breakfast and its location shall be posted inside the dwelling unit’s primary entrance. In addition to the endorsement, such information shall include occupancy limits; a phone number and address for the designated contact; a diagram of the premises with parking locations; the maximum number of vehicles that can be parked on-site; instructions for trash pick-up, storage and recycling; emergency information; and the noise limitations of Section 8.15.015 of the Newport Municipal Code. This information shall be maintained and current at all times;*

There is currently no way to check for ongoing compliance.

*M. Business License Required. A business license for the rental use shall be obtained pursuant to Chapter 4.05 of the Newport Municipal Code; and*

*N. Room Tax. Owner or designee shall adhere to the room tax requirements of Chapter 3.05 of the Newport Municipal Code.*

There has been no ongoing monitoring of the status of business licenses not remission of room taxes. This needs to done.

#### 14.25.060 Inspections

*C. Dwelling units with an endorsement for vacation rental or bed and breakfast use shall be subject to periodic re-inspection by the Building Official or designee at the city's discretion to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the city's discretion and available resources.*

Let's make sure this gets done!

#### 14.25.070 Notice Requirements

*Upon issuance of an endorsement, the City shall provide notice to property owners within 200' of the subject property (or outline of property that is held in common) and a Homeowners Association, if one is established where the dwelling unit is located, advising that an endorsement for a vacation rental or bed and breakfast use has been issued. Such notice shall include the address of the dwelling unit that received the endorsement, a location where additional information can be obtained about the nature of the endorsement, and the name, phone number, mailing address, and email address (if available) of the owner or designated contact.*

Again, you should consider increasing this distance to 500 feet or more.

#### 14.25.080 Complaints

*The designated contact identified in subsection 14.25.050(G) above, is the initial point of contact for complaints regarding the use of the dwelling unit. That individual shall maintain a written log documenting the nature of all complaints related to endorsement standards, the dates they were received, and efforts taken to resolve issues that have been raised. The written log shall be provided to the City upon request.*

The whole complaint process needs to be centralized with the City providing public access.

#### 14.25.100 Penalties

*Penalties for a violation of subsection 14.25.090(A) shall be as established in Section 14.54. Where the owner possesses a valid endorsement or land use permit, the penalties for violations of 14.25.050 (B-E) shall be as follows:*

*A. For the first violation within a 12-month period, City shall issue a written warning to owner.*

*B. For the second violation within a 12 month period, City shall suspend owner's vacation rental or bed and breakfast endorsement for 30 days.*

*C. For the third violation within a 12-month period: 1) City shall revoke owner's vacation rental or bed and breakfast endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under 14.52.150.*

Under the current ordinance, warning letters have been few and far between. In the case of the VRD in my neighborhood, ongoing violations have not been acknowledged or acted upon.

If an endorsement is suspended or revoked, there needs to be a monitoring mechanism to insure compliance. Providing notification to the neighbors would help, but the City also needs to check for compliance. If the VRD owner does not comply, then what?

Thank you for participating in this process. I am confident that you will propose a new ordinance that will address the problems you have heard about. And thank you for considering my comments and ideas.

